

REMARKS

In the **final** Office Action mailed December 16, 2009 the Office noted that claims 1-13 were pending and rejected claims 1-13. In this amendment claims 1, 3-9 and 11-13 have been amended, claims 2 and 10 have been canceled, and, thus, in view of the foregoing claims 1, 3-9 and 11-13 remain pending for reconsideration which is requested. No new matter has been added. The Office's rejections and objections are traversed below.

OBJECTION TO THE SPECIFICATION

The disclosure stands objected to for informalities. In particular, the Office asserts that a phrase is duplicated. The Applicants have amended the Specification. The Applicants submit that no new matter is believed to have been added by the amendment of the Specification.

Withdrawal of the objection is respectfully requested.

CLAIM OBJECTION

Claims 2 and 7 stands objected to for informalities. In particular, the Office asserts that claim 2 is improperly dependent and claim 7 has antecedent basis issues. The Applicants have amended the claim 7 and cancelled claim 2. The Applicants submit that no new matter is believed to have been added by the amendment of claim 7.

Withdrawal of the objections is respectfully requested.

REJECTIONS under 35 U.S.C. § 112

Claims 1-13 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. In particular, the Office asserts that the claims use relative or unclear terms.

The term 'high concentration of nitrogen' in claims 3 and 8 is used in conjunction with the term 'low concentration of nitrogen', this clearly indicates and qualifies each range by reference to the other. Likewise, the terms 'low mass flow rate' and 'high mass flow rate' are clear. For the avoidance of doubt we have, however, amended claims 3 and 8 to indicate that the 'high concentration' is higher than the 'low concentration' and the 'high mass flow rate' is higher than the 'low mass flow rate'. The Applicants have amended the claims to overcome the rejections of the Office. It is respectfully submitted that no new matter is believed to have been added by the amendment of the claims.

The phrase 'design threshold' has been replaced by the term 'predetermined threshold' to address this rejection. The Applicants submit that no new matter is believed to have been added by the amendment of the claims.

Withdrawal of the rejections is respectfully requested.

REJECTIONS under 35 U.S.C. § 102

Claims 1-4 and 6-10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Schmutz, U.S. Patent No. 6,547,188. The Applicants respectfully disagree and traverse the rejection with an argument and amendment.

Schmutz discusses reducing the size and weight of the mechanical elements requires for fuel tank inerting, and providing a system which also requires a lesser supply of compressed air than in the prior art (see Schmutz col. 1 lines 44-49).

The Applicants have amended claim 1 to recite "**a** control **device** operable to control said air separation **device** to supply nitrogen-enriched air into said at least one aircraft fuel tank during cruise conditions and to supply nitrogen-enriched air at a higher flow rate during descent, whereby the whole of the mass of gas required to maintain the pressure difference across the walls of the fuel tank below a **predetermined** threshold is provided by said air separation **device, without inward venting of ambient air.**" (Emphasis added) Support for the amendment may be found, for example, in ¶ 0013 of the printed publication version of the Specification. Claim 8 has been amended in a similar manner. The Applicants submit that no new matter is believed to have been added by the amendment of claims 1 and 8.

Schmutz does not disclose, teach or suggest such a

feature as in amended claims 1 and 8.

With regards to claim 6, the Office asserts that Schmutz, col. 6, lines 5-8 disclose "a source means for providing nitrogen-enriched air for delivery into said at least one tank, and a distribution network means for distributing said nitrogen-enriched air at a number of spaced locations within said at least one tank," as in amended claim 6.

However, there is no disclosure in Schmutz of distributing the nitrogen-enriched air at a number of spaced locations within a tank. Schmutz discusses no more than a single entry point into the tank 12.

For at least the reasons discussed above, claims 1, 6 and 8 and the claims dependent therefrom are not anticipated by Schmutz.

Withdrawal of the rejections is respectfully requested.

REJECTIONS under 35 U.S.C. § 103

Claims 5 and 11-13 stand rejected under 35 U.S.C. § 103(a) as being obvious over Schmutz in view of Applicant Admitted Prior Art (AAPA). The Applicants respectfully disagree and traverse the rejection with an argument.

AAPA adds nothing to the deficiencies of Schmutz as applied against the independent claims.

For at least the reasons discussed above, Schmutz and the AAPA, taken separately or in combination, fail to render

obvious the features of claims 5 and 11-13.

Withdrawal of the rejections is respectfully requested.

SUMMARY

It is submitted that the claims satisfy the requirements of 35 U.S.C. §§ 112, 102 and 103. It is also submitted that claims 1, 3-9 and 11-13 continue to be allowable. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/James J. Livingston, Jr./

James J. Livingston, Jr.
Reg.No. 55,394
209 Madison St, Suite 500
Alexandria, VA 22314
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

JJL/fb